

REMARKS

The Official Communication mailed June 16, 2006 contains both restriction and election requirements. Applicant herewith responds to each of them.

I. Restriction Requirement

The Examiner has required restriction between two groups of claims, Group I, constituting claims 1-22, drawn to a method of separating; and Group II, constituting claims 23-62, and drawn to a component separator. Applicant provisionally elects the claims of Group I, with traversal.

As stated in the Official Action, the basis for the restriction requirement is the Examiner's belief that the apparatus of claims 23-62 can be used to practice a process materially different from that claimed. Applicant believes the Examiner's analysis was dependent upon unclear and inconsistent claim language which has been clarified and made consistent by the above amendments. Hence, the basis for the Examiner's conclusion – the claim language – no longer supports his reasoning.

The Examiner postulates the materially different process as that of separating light solids from heavy solids that sink. Turning to claim 23 as amended, however, the claimed component separator is indicated to have a first “part” of the separation chamber which receives a mixture including a liquid and buoyant components, a second “part” of the separation chamber fluidly coupled to the first part of the separation chamber, and a communication passage “constructed and arranged to provide the fluid communication between the first and second parts of the separation chamber.” The claim further specifies that “the liquid flows through the communication passage from the first part of the separation chamber into the second part of the separation chamber while the buoyant components substantially accumulate in the first part of the separation chamber.” In the Examiner's postulated process, there are both light solids and heavy solids. The claim requires that the light solids (presumably corresponding to the buoyant components) substantially accumulate in the first part of the separation chamber. However, since it is the first part of the separation chamber that receives the liquid, if there are heavy solids in addition to light solids in that liquid, the heavy solids obviously are either not going to even reach the separation chamber (though the claim provides no alternative – i.e., this is an issue not addressed in the independent claims) or they are

going to sink in the first part of the separation chamber and will not reach the second part of the separation chamber. So, the liquid will flow through the communication passage from the first part of the separation chamber into the second part of the separation chamber while both the light solid, buoyant components and the heavy solids accumulate in the first part of the separation chamber. This is **NOT** “a materially different process” from that claimed in the method claims. The Examiner may have been confused/misled because the claims previously did not use the term “chamber” consistently. He may have thought the two parts of the separation chamber were two – rather than one – chambers. It is now clear that there are two parts to the separator chamber and that a distinct receiving chamber is not required except in dependent claims 7 and 31. So it is only at claims 7 and 31 that the claimed invention permits less than all of the buoyant components to reach the separation chamber. Consequently, the Examiner has failed to establish a proper basis for restriction and the restriction requirement should be withdrawn. The Examiner is implicitly reading into the claims limitations that are not required.

II. Species Election

The Examiner has additionally required election between species A, represented by FIG. 1, and species B, represented by FIG. 3. Applicant provisionally elects species A, corresponding to FIG. 1.

Applicant has provisionally elected method claims in Section I above. Assuming that the restriction requirement is withdrawn, as it should be, Applicant designates as corresponding to the elected species claims 1-12, 14-21, 23-45, 47-61 and 63-69. In the event the restriction requirement is not withdrawn, then obviously the election is not intended to include the apparatus claims that will be deemed withdrawn.

III. Amendment

The claims are amended to more precisely point out and distinctly claim the invention. In particular, Applicant has made an effort to use terminology more consistently in the claims and Applicant has deleted the reference to “steps” in the method claims to avoid any implication that such claims are to be construed under 35 USC 112, para. 6.


New claims have been added to claim aspects of the invention not previously claimed.

CONCLUSION

The Restriction Requirement should be withdrawn and generic claims allowed, as a result of which all claims should now be allowed.

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Respectfully submitted,

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